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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/700,669	01/03/2001	Bernt Sweder Van Asbeck	30394-1041	7552	
5179 75	590 02/27/2004		EXAM	INER	
PEACOCK M	IYERS AND ADAMS	SPC	KETTER,	KETTER, JAMES S	
P O BOX 2692	7 UE, NM 871256927		ART UNIT	PAPER NUMBER	
ALBOQUERQ	OE, NWI 8/123092/		1636		

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

(a) ⊠ they raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ they raise the issue of new matter (see Note below); (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. 3. ☐ Applicant's reply has overcome the following rejection(s): 4. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection. 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) withdrawn from consideration: 11-13. The drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner. 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s)		Application No.	Applicant(s)				
Examiner James S. Ketter 1636	Advisory Action	09/700,669	VAN ASBECK ET AL.				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — THE REPLY FILED 09 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a inal rejection under 37 CFR 1.113 may only be either; (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. ■ PERIOD FOR REPLY (check either a) or b)! ■ PERIOD FOR REPLY (check either a) or b)! The period for reply expires 2 months from the mailing date of the final rejection. ■ Not. Check This Box Whiten The First REPLY WAS PILED WITHIN TWO MONTHS OF THE FIRML REJECTION. See MPEP Extensions of time may be obtained under 37 CFR 1.13(a). The table on which the period under 37 CFR 1.13(a) and the appropriate extension see have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension see have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension see under 37 CFR 1.13(a) is a classified from; (1) the expiration date of the shortened statutory period for reply criginally set in the difference any extension the replaced set of the filed within the period set forth in 37 CFR 1.13(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the filed rejection, even if immery lifed, may reduce any examel patient term adjustment. See 37 CFR 1.704(b). ■ A Notice of Appeal was filed on	navisory neutrin	Examiner	Art Unit				
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Continuation of 2. NOTE: The amendment of the claims as proposed would force the instatement or reinstatement of at least two rejections under 35 USC 102(b) or (e), respectively, against claims 7, 8, 17 and 18, over (at least) Levine et al. and Cheng et al., (and claims 9 and 10 over Levine et al., as well), in that the iron-chelating component is no longer a limitation. Treatment of HIV-associated conditions is not distinguished from treatment of direct manifestations of HIV infection by any definition in the specification or the art, and it is apparent that a condition that arises commonly as a result of a virus infection, but rarely in its absence, may be understood to have been caused by that virus. As such, Levine et al. still would apply to the proposed claims. Claims 7, 8, 17 and 18 are not limited to RNA viruses, so Cheng et al. would apply to the proposed claims. Furthermore, the reference in claims 14-16 to "the iron-chelating compound" would raise a new issue under 35 USC 112, second paragraph, for lack of antecedent basis. The proposed removal of the iron-chelting compound limitation would significantly broaden the claims, which would not serve to move the case toward appeal.



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Commissioner for Patents

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